

AO 120 (Rev. 2/99)

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**REPORT ON THE  
 FILING OR DETERMINATION OF AN  
 ACTION REGARDING A PATENT OR  
 TRADEMARK**

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. <b>C-11-1780-EDL</b>	DATE FILED <b>April 12, 2011</b>	U.S. DISTRICT COURT <b>Office of the Clerk, 450 Golden Gate Ave., 16<sup>th</sup> Floor, San Francisco, CA 94102</b>
PLAINTIFF  <b>CLIP VENTURES LLC.</b>		DEFENDANT  <b>LOGAN GRAPHIC PRODUCTS, INC.</b>
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 <b>4,158,977</b>		
2		<b>"PLS. SEE ATTACHED COPY OF COMPLAINT"</b>
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK  <b>Richard W. Wicking</b>	(BY) DEPUTY CLERK  <b>Thelma Nudo</b>	DATE  <b>April 12, 2011</b>
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner  
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

ORIGINAL  
FILED

2011 APR 12 P 1:36

POWER OF ATTORNEY  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 **CV 11-01780**

12 CLIP VENTURES LLC, a California  
limited liability company,

13 Plaintiff,

14 vs.

15 LOGAN GRAPHIC PRODUCTS, INC., an  
16 Illinois corporation,

17 Defendant.  
18

PLAINTIFF CLIP VENTURES LLC'S  
COMPLAINT FOR FALSE MARKING

FILE BY FAX

19 Plaintiff Clip Ventures LLC ("Clip Ventures"), by its attorneys, Owens Tarabichi LLP, for  
20 its Complaint in this action alleges:

21 **PARTIES**

22 1. Clip Ventures is a California limited liability company having its principal place of  
23 business at 171 Main Street #139, Los Altos, California 94022.

24 2. Logan Graphic Products, Inc. ("Logan") is an Illinois corporation having its  
25 principal place of business at 1100 Brown Street, Wauconda, Illinois 60084.

26 **JURISDICTION AND VENUE**

27 3. This Court has subject matter jurisdiction of this action under 28 U.S.C. §§ 1331,  
28 1338(a), as this action involves substantial claims arising under the U.S. Patent Act of 1952, as

1 amended, 35 U.S.C. §§ 1 *et seq.*

2 4. This Court also has subject matter jurisdiction of this action under 28 U.S.C.  
3 § 1332 because the amount in controversy exceeds the sum or value of \$75,000, and there is  
4 complete diversity of citizenship between the parties.

5 5. Logan is subject to personal jurisdiction in this district because it conducts regular  
6 and systematic business in California, and the causes of action contained herein arise out of, or  
7 result from, Logan's purposeful availment of the privilege of conducting activities with or within  
8 the State of California.

9 6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c)  
10 because Logan is subject to personal jurisdiction in this district and a substantial part of the events  
11 or omissions giving rise to the claim(s) occurred in this district.

12 **INTRADISTRICT ASSIGNMENT**

13 7. Pursuant to N.D. Civil Local Rule 3-2(c), this is an intellectual property action  
14 subject to district-wide assignment.

15 **FACTS RELEVANT TO ALL CLAIMS**

16 8. The Patent Act of 1952 prohibits marking upon, affixing to, or using in advertising  
17 a patent number or the word "patented" in connection with an article that is unpatented. This  
18 includes advertising or marking an article with an expired patent number or advertising that an  
19 article is patented when the patent has expired. Pursuant to 35 U.S.C. § 292, a person or entity  
20 who falsely marks shall be fined up to \$500 on a per article basis.

21 9. The Patent Act also provides a *qui tam* cause of action for false marking. In  
22 bringing a *qui tam* cause of action for false marking, the plaintiff pays 50% of the fine to the U.S.  
23 Government and is permitted to retain the remaining 50% of the fine.

24 10. Accordingly, as a matter of public policy, the federal government has incentivized  
25 the consuming public, competitors, and others to identify falsely marked articles and bring *qui*  
26 *tam* actions. This is because falsely marking articles injures the public in several ways, including,  
27 but not limited to, (i) deterring innovation and stifling competition in the marketplace; (ii)  
28 encouraging unnecessary investment in design around efforts; and (iii) inflating consumer

1 demand for an article that the public believes is unique and without competition.

2 Logan's False Marking

3 11. Logan makes and sells a variety of art tools, such as foamboard, framing, and mat  
4 cutting tools. Logan advertises its products through its own website at [www.logangraphic.com](http://www.logangraphic.com),  
5 and its products are sold at various art supply and craft and hobby stores, including Michael's  
6 Arts & Crafts and Aaron Brothers, as well as on-line retailers such as Amazon.com.

7 12. One of the products sold by Logan is the Logan 2000 Push Style Handheld Mat  
8 Cutter. In advertising its Push Style Mat Cutter, Logan uses a picture of the Push Style Handheld  
9 Mat Cutter that prominently displays U.S. Patent No. 4,158,977. In addition to the picture that  
10 prominently displays U.S. Patent No. 4,158,977, Logan advertises that the Push Style Handheld  
11 Mat Cutter features Logan's "patented blade slot"—another reference to U.S. Patent No.  
12 4,158,977. These advertisements appear on Logan's website at [www.logangraphic.com](http://www.logangraphic.com), as well  
13 as on the websites of retailers that carry Logan's Push Style Handheld Mat Cutter. Attached as  
14 Exhibit A are true and correct copies of such advertisements from Logan's website at  
15 [www.logangraphic.com](http://www.logangraphic.com), Michael's Arts & Crafts' website at [www.michaels.com](http://www.michaels.com), and  
16 Amazon.com's website at [www.amazon.com](http://www.amazon.com).

17 13. In addition to its false advertising, on information and belief, within the five years  
18 preceding the filing of this Complaint, Logan has also sold the Push Style Handheld Mat Cutter  
19 falsely marked with U.S. Patent No. 4,158,977 to consumers in California and throughout the  
20 United States.

21 14. Logan, however, does not have a patent covering its Push Style Handheld Mat  
22 Cutter or the blade slot because U.S. Patent No. 4,158,977 is expired. U.S. Patent No. 4,158,977  
23 expired on December 8, 1997—over 12 years ago.

24 15. Despite the fact that U.S. Patent No. 4,158,977 expired over a decade ago, Logan  
25 continues to advertise that its Push Style Handheld Mat is patented to this day in California and,  
26 on information and belief, throughout the United States.

27 Logan's Intent to Deceive

28 16. Despite advertising using a picture of the Push Style Handheld Mat Cutter that

1 prominently displays U.S. Patent No. 4,158,977 and advertising that the Push Style Handheld Mat  
2 Cutter features Logan's "patented blade slot," Logan knew that U.S. Patent No. 4,158,977 had  
3 expired and that the Push Style Handheld Mat Cutter was not patented and knowingly falsely  
4 marked and advertised the product was patented with an intent to deceive the public and an intent  
5 to induce the public to believe that the product was covered by a U.S. patent when, in fact, it is  
6 not.

7 17. In fact, Logan's knowledge that U.S. Patent No. 4,158,977 had expired and that  
8 the Push Style Handheld Mat Cutter is not patented is evidenced by the fact that Logan has  
9 removed the marking of U.S. Patent No. 4,158,977 from the actual Push Style Handheld Mat  
10 Cutter actual product that is now sold in stores. The patent number was removed from the actual  
11 product because Logan knows it expired; yet Logan continues to advertise that the product is  
12 patented in its on-line advertisements.

13 **FIRST CLAIM FOR RELIEF**  
14 **FALSE MARKING PURSUANT TO 35 U.S.C. § 292**

15 18. Paragraphs 1-18, above, are realleged and incorporated by reference as if set forth  
16 in full.

17 19. One of the products sold by Logan is the Logan 2000 Push Style Handheld Mat  
18 Cutter. In advertising its Push Style Mat Cutter, Logan uses a picture of the Push Style Handheld  
19 Mat Cutter that prominently displays U.S. Patent No. 4,158,977. In addition to the picture that  
20 prominently displays U.S. Patent No. 4,158,977, Logan advertises that the Push Style Handheld  
21 Mat Cutter features Logan's "patented blade slot"—another reference to U.S. Patent No.  
22 4,158,977. See Exhibit A.

23 20. In addition to its false advertising, on information and believe, within the five  
24 years preceding the filing of this Complaint, Logan has also sold the Push Style Handheld Mat  
25 Cutter falsely marked with U.S. Patent No. 4,158,977 to consumers in California and throughout  
26 the United States.

27 21. Logan, however, does not have a patent covering its Push Style Handheld Mat  
28 Cutter or the blade slot because U.S. Patent No. 4,158,977 is expired. U.S. Patent No. 4,158,977

1 expired on December 8, 1997—over 12 years ago.

2 22. Logan knew that the U.S. Patent No. 4,158,977 was expired and that the Push  
3 Style Handheld Mat Cutter was not patented and knowingly falsely marked and advertised the  
4 product and its features as patented with an intent to deceive the public and an intent to induce the  
5 public to believe that these features were patented.

6 23. Logan sells its falsely marked and advertised Push Style Handheld Mat Cutter in  
7 California and, on information and belief, throughout the United States.

8 24. Pursuant to 35 U.S.C. §292, Logan should be penalized \$500 for each falsely  
9 marked article and advertisement.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Clip Ventures prays for judgment against Logan and relief as follows:

12 (i) that the Court declare, adjudge, and decree that Logan violated 35 U.S.C. § 292;

13 (ii) that, pursuant to 35 U.S.C. § 292(b), the Court fine Logan in the amount of \$500  
14 for each falsely marked article and advertisement, with half of the fine payable to Clip Ventures  
15 and the other half payable to the United States;

16 (iii) that, pursuant to 35 U.S.C. § 285, Clip Ventures recover its reasonable attorneys'  
17 fees;


18 (iv) that Clip Ventures recover the costs of this action, including attorneys' fees and  
19 interest; and

20 (v) such other and further relief that this Court may deem just and equitable.

21  
22 Dated: April 12, 2011

Respectfully submitted,

OWENS TARABICHI LLP

23  
24  
25 By   
David R. Owens  
Bruno W. Tarabichi  
Attorneys for Plaintiff  
Clip Ventures LLC  
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RULE 7.1(a) STATEMENT

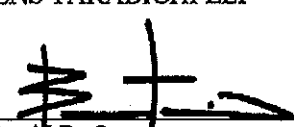
Pursuant to Federal Rule of Civil Procedure 7.1(a), the undersigned counsel for Clip Ventures LLC hereby states that there is no parent corporation or publicly held corporation owning 10% or more of its stock.

Dated: April 12, 2011

Respectfully submitted,

OWENS TARABICHI LLP

By

  
David R. Owens  
Bruno W. Tarabichi  
Attorneys for Plaintiff  
Clip Ventures LLC